

PRACTICE DIRECTION NUMBER 12 OF 2022
SUPREME COURT OF QUEENSLAND

APPLICATIONS

This Practice Direction applies to all applications made in the Trial Division of the Court, including bail applications.

Filing of Material on Applications

1. Material to be read on an application is to be filed with it, or at least two business days before the return date of the application.
2. Late material which cannot be filed within the above time-frame should not be filed in the Registry but be brought to Court and filed by leave.
3. A copy of material for which leave to file will be sought, should be given to the other parties to the application as early as is practicable.
4. When applications are received for filing by post (rule 969 UCPR), the Registrar will assign a return date a minimum of two weeks in the future to allow the applicant time to serve the application on the other parties. The Registrar will enter the return date in the applications list and mark it on the sealed copies for return to the applicant by post.

Time Estimates for Applications

5. Time estimates given by Practitioners to the Registry when applications are filed must be made responsibly and allow time for the Judge to read the material during the hearing, hear submissions from all parties to the application, and (if likely) deliver *ex tempore* reasons. If a barrister is retained at the time the application is filed, the estimate is to be that of the barrister.

Agreement as to Orders Before Return Date

6. If all the parties to an application agree upon orders to be made on the application before the return date, they may send a draft order to the associate to the senior Judge sitting in applications by email seeking that the Judge make the order on the papers. The email must expressly state that all parties to the application have been copied into the email. The email may contain explanatory material about the application and the reasons for the order sought.
7. The draft order must:
 - (a) state that it is a consent order

Example – “BY CONSENT IT IS ORDERED THAT - ”

- (b) display all parties to the Proceeding in the court heading (ie., not display an abbreviated court heading)
 - (c) either -
 - (i) be signed by a Lawyer acting for each party to the Proceeding over a signature panel showing that Lawyer’s name, firm, and the party for whom that lawyer acts, or
 - (ii) be signed by a Lawyer acting for every party to the Proceeding affected by the proposed order over such a panel, and contain a certification by each such Lawyer as to which parties to the Proceeding are affected by the proposed order.
8. Any email enclosing a draft consent order is to be sent to the Associate to the senior Judge sitting in Applications before 4 pm on the day before the return date.
 9. Practitioners should expect that only straightforward applications will be disposed of by orders made on the papers and should be prepared to attend Court in the event that the senior Judge sitting in applications is not prepared to make orders without an appearance.
 10. If the senior Judge sitting in Applications does make an order before the return date:
 - (a) the Judge will initial the draft order and the file will be endorsed, “order as per initialled draft”;
 - (b) the email and any attachments to it will be marked as an exhibit on the application and placed on the file.
 11. This procedure is separate from, and additional to, the procedure allowed by rule 666, and form 59A of the UCPR (Consent orders made by registrar), and the procedure allowed by rule 489(1) of the UCPR (Proposal for decisions without oral hearing).

Callover

12. The Judge conducting the callover will ask for adjournments and consents at the beginning of the callover. Practitioners who have agreed a draft order should mention it at this point. If making the order involves no exercise of discretion, the draft may be handed up at that point. If an exercise of discretion is involved, the matter will be dealt with as a short matter after the callover.

Example – “For the applicant/plaintiff. This is an application for particulars. The parties have agreed a draft which I hand up.”

Example – “For the applicant/plaintiff. This is an application for an injunction. The parties have agreed on undertakings, subject to Your Honour being satisfied. Ten minutes.”

13. After consents and adjournments have been dealt with, the Judge will call each of the remaining applications on the list. When the Judge calls the name of the Proceeding, practitioners must state the party for whom they act; the type of application, and the time the application is expected to take to hear.

Example – “For the applicant/plaintiff. This is a summary judgment application. One hour.”

14. Time estimates given at the callover are to be responsibly made, see 5 above.

Appearance

15. Employees of a solicitors firm, who are not admitted as Lawyers, must seek leave to appear.
16. Practitioners must complete an appearance slip and hand it to the bailiff as, or immediately before, appearances are announced.

Outlines of Argument

17. Practitioners must provide two paper copies of a written outline of argument on all applications. One copy of each outline is to be filed, either before the application or by leave, see paragraphs 1 and 2 above. The other copy is a working copy for the Judge hearing the application.
18. Outlines of Argument must be exchanged as early as practicable prior to the hearing.
19. Outlines of Argument must:
- (a) list the material the party reads on the application and the Court Document number of each filed document;
 - (b) list the material the party seeks leave to read and file on the application, and the date of each document;
 - (c) summarise the party’s argument;
 - (d) identify relevant cases and legislation;
 - (e) usually not exceed six pages.
20. In a complex matter, practitioners should email their outlines of argument to the associate to the senior Judge sitting in Applications the day before the return date of an application. The email should be copied to all other parties to the application. This is not a process of exchange: each party is to act independently.

21. This early provision of outlines by email does not relieve practitioners of the obligation at paragraph 17 above.
22. Practitioners must provide copies of relevant cases and legislation for the Judge. In appropriate cases practitioners should consider whether working copies of some affidavits or other documents should be provided to assist the Judge hearing the matter.

Example – In a strike out application it might be helpful to provide a copy of the impugned pleading.

Draft Orders

23. Practitioners who seek orders from the Court should bring a draft order to the hearing of the application.

Repeal of Former Practice Directions

24. Practice Directions 14/1999, 24/1999, 2/2001, 7/2001, 6/2004 and 3/2008 are repealed.



Helen Bowskill
Chief Justice
21 June 2022